of the defendant's street, and the contributory negligence of G., and the plaintiff, one of the young ladies, was injured. In an action by her against the city, *Held*, that the negligence of G. was not to be imputed to the plaintiff. *Koplitz* v. *City of St. Paul*, (1902), — Minn. —, 90 N. W. Rep. 794.

Said the court:—"The rule as to imputed negligence, as settled by this court in cases other than those where the parties stand in the relation of parent and child or guardian and ward, is that negligence in the conduct of another will not be imputed to a party if he neither authorized such conduct nor participated therein, nor had the right or power to control it. If, however, two or more persons unite in the joint prosecution of a common purpose under such circumstances that each has authority, expressed or implied, to act for all in respect to the control of the means or agencies employed to execute such common purpose, the negligence of one in the management thereof will be imputed to all the others. *Follman* v. *City of Mankato*, 35 Minn. 522, 29 N. W. 317, 59 Am. Rep. 340; *Flaherty* v. *Railway Co.*, 39 Minn. 328, 40 N. W. 160, 1 L. R. A. 680, 12 Am. St. Rep. 654; *Howe* v. *Railway Co.*, 62 Minn. 71, 64 N. W. 102, 30 L. R. A. 684, 54 Am. St. Rep. 616; *Johnson* v. *Railway Co.*, 67 Minn. 260, 69 N. W. 900, 36 L. R. A. 586; *Finley* v. *Railway Co.*, 71 Minn. 471, 74 N. W. 174; *Wolsiska* v. *Railway Co.*, 80 Minn. 364, 83 N. W. 386; *Lammers* v. *Railway Co.*, 82 Minn. 120, 84 N. W. 728. It is too obvious to justify discussion that the plaintiff in this case neither expressly nor impliedly had any control over the drivers of the omnibus, or either of them, or of Mr. G., and that he and she were not engaged in a joint enterprise in any such sense as made her so far responsible for his negligence in driving the horses that it must be imputed to her."

The cases elsewhere, as is well-known, are full of conflict. The general rule seems to be that one who rides with another, by the latter's invitation, is, if himself free from negligence, not to be held responsible for the negligence of the driver, where he has or exercises no power of control over the driver; *Leavenworth* v. *Hatch*, 57 Kan. 57, 45 Pac. 65, 57 Am. St. 309; *Baltimore etc., R. Co.* v. *State*, 79 Md. 335, 47 Am. St. 415; *Miller* v. *Railway Co.*, 128 Ind. 97, 25 Am. St. 416; *Robinson* v. *Railroad Co.*, 66 N. Y. 11, 23 Am. Rep. 1; *New York, etc., R. Co.*, v. *Steinbrenner*, 47 N. J. L. 161, 54 Am. Rep. 126; *Carlisle* v. *Brisbane*, 113 Pa. 544, 57 Am. Rep. 483; *Reading Township* v. *Telfer*, 57 Kan. 798, 57 Am. St. 355, (where the parties were husband and wife). *Contra*: *Whittaker* v. *Helena*, 14 Mont. 124, 43 Am. St. 121; *Prideaux* v. *Mineral Point*, 43 Wis. 513, 28 Am. Rep. 558; *Mullen* v. *Owosso*, 100 Mich. 103, 43 Am. St. 436. One who hires a team and driver is affected with the driver's negligence, where the danger was open and obvious, and he neither remonstrated nor took any steps to avoid the injury; *Illinois C. R. Co.*. v. *McLeod*, 78 Miss. 334, 29 South. Rep. 76, 84 Am. St. 630.

PARTNERSHIP—ILLEGAL TRANSACTIONS. ACCOUNTING.—S. and R. were partners in training and racing horses and book-making. S. deposited in the bank to his own credit the profits of the book-making business and died suddenly. R. asks for an accounting, claiming right to contribution for money paid for entrance of horses, money lost in betting on horses entered, and share in profits of book-making. *Held*, that complainant is entitled to contribution as to entrance fees but not as to sums lost in wagers, as equity would not entertain bill for accounting as to profits of book-making. *Central Trust and Safe Deposit Co.* v. *Respass* (1902), — Ky. —, 66 S. W. Rep. 421.

At common law all wagers are illegal. *Irwin* v. *Williar* 110 U. S. 510. Betting upon horse races is wagering and illegal. The law will not lend its support to a claim founded upon its violation. If the plaintiff in order to recover must rely upon a contract or transactions which is illegal he must fail. Any cases in seeming conflict with this principle will be seen to fall within the following class which is still within the principle stated.

If A, who owes to B a sum of money on some illegal contract or transaction acknowledges

this obligation and waiving the illegality pays the amount to C upon his promise to pay it to B, B can recover from C, the latter not being permitted to set up the original transaction. *Brooks* v. *Martin*, 2 Wall. 70, seems to go a little farther than this, but the above statement of the law is fully borne out by *McMullen* v. *Hoffman* 174 U. S. 639, and by the great weight of authority.

PATENT—INFRINGEMENT—RIGHT OF PURCHASER OF PATENTED ARTICLES TO REPAIR.—Defendant, a custom machinist, repaired sewing machines for the purchasers, by renewing several of the material patented parts. Patentees sue for infringement, admitting that the case stands as though brought against the purchasers. *Held*: no infringement. *Goodyear Shoe Machinery Co.* v. *Jackson*, (1901) 112 Fed Rep. 146, 50 C. C. A. 159.

When the patent is for a single thing, like a needle, and not for a device composed of several elements combined, to replace the old needle by a new one is reproduction, not repair. *Aiken* v. *Manchester Print Works*, 2 Cliff. 435, Fed. Cas. No. 113. When the patent is for a device embracing a combination of elements, it is infringement to reconstruct after it has filled its purpose and is substantially destroyed. *Cotton-Tie Co.* v. *Simmons*, 106 U. S. 89, *Davis Electrical Works* v. *Edison E Light Co.*, 8 C. C. A. 615, 60 Fed. R. 276. A practical, though not a literal reconstruction, under pretext of repairs, is infringement, but replacement of easily worn out parts is permissible. *Wilson* v. *Simpson*, 9 How. (U. S.) 109.

In the principal case the several patents cover a combination of essential elements only a portion of which were replaced. Each case must stand by itself and no general rule can be laid down other than that all the essential elements of the combination cannot be replaced. If under all the circumstances of the case, considered in the light of the nature and purpose of the invention, a *bona fide* intent to repair is apparent, and some essential element remains, it is not reconstruction or reproduction, but restoration, and is not infringement.

PRINCIPAL AND SURETY—RELEASE OF SURETY BY LACHES OF OFFICERS OR AGENTS OF THE CORPORATION SECURED.—A surety company became surety for the fidelity of a bank president. The president was guilty of irregularities, the bank failed, and the receiver of the bank brought action to recover of the surety company upon the bond of the president. The defense, *inter alia*, was that the bank directors knew of the president's irregularities and did nothing to secure the bank against them, and especially that the cashier of the bank knew of these irregularities and that his knowledge must be imputed to the corporation, *Held*, that the surety was not released. *Fidelity Co.* v. *Courtney* (1901), — U. S. —, 22 Sup. Ct, Rep. 833.

"It is well settled," said the court, "that in the absence of express agreement, the surety on a bond given to a corporation, conditioned for the faithful performance by an employe of his duties, is not relieved from liability for a loss within the condition of a bond by reason of the laches or neglect of the board of directors, not amounting to fraud or bad faith, and that the acts of ordinary agents or employees of the indemnified corporation, conniving at or co-operating with the wrongful act of the bonded employee, will not be imputed to the corporation. *United States* v. *Kirkpatrick* (1824) 9 Wheat. 720 736, 6 L. ed. 199, 203; *Minor* v. *Mechanics' Bank* (1828) 1 Pet. 46, 7 L. ed. 47; *Taylor* v. *Bank of Kentucky* (1829) 2 J. J. Marsh. 564; *Amherst Bank* v. *Root* (1841) 2 Met. 522; *Louisiana State Bank* v. *Ledoux* (1848) 3 La. Ann. 674; *Pittsburg, Ft. W. & C. P. Co.* v. *Shaeffer* (1868) 59 Pa. 350, 356; *Atlas Bank* v. *Brownell* (1869) 9 R. I. 168, 11 Am. Rep. 231."

Upon the second point the court said: "The principle of law discussed in the case of *The Distilled Spirits* 11 Wall. 356, *sub nom. Harrington* v. *United States* 20 L. ed. 167, *viz.*, that the knowledge of an agent is in law the knowledge of his principal, is intended for the protection of the other party (actually or constructively) to a transaction for and on account of the principal had with such agent. In the very nature of things, such a principle does not obtain